(S)

(74)

HIGH COURT OF CHHATTISGARH; BILASPUR

Writ Petition (S) No. 928 of 2007

Petitioner Vijay Pratap Singh, aged about 54 years, son of Late Bhagat Singh, working as – Sub Engineer, Department of Water Resources Division – Mungeli, Dist. Bilaspur, CG.

Versus

Respondents

1) State of Chhattisgarh, through the Secretary, Department of Water Resources, Dau Kalyan Singh Bhawan, Raipur, CG.

2) Engineer-in-Chief, Department of Water Resources, Raipur, CG.

3) Chief Engineer, Department of Water Resources, Kachchar Division, Dist. Bilaspur, CG.

4) Executive Engineer, Department of Water Resources, Maniyari Water Resources Division, Mungeli, Dist. Bilaspur, CG.

5) Sub Divisional Officer, Water Resources Department Sub Division, Takhatpur, Dist. Bilaspur, CG.

(WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Shri R. Pradhan, counsel for the petitioner.
Shri Satish Gupta, Deputy Govt. Advocate for the State.

ORDER

(Passed on 25th April, 2007)

By this petition, the petitioner impugns the order dated 17-1-2007 (Annexure P/1), whereunder the petitioner was transferred from the post of Sub Engineer, Maniyari Water Resources Division, Mungeli to the office of Executive Engineer, Water Resources Division, Jashpurnagar.

(75)

2) The main contention of the petitioner is that the respondent has submitted in its return that there are surplus employees which is contrary to the facts. According to learned counsel appearing for the petitioner, there are 29 sanctioned posts and actually working are 28. Thus, the statement of the respondents to the effect that the transfer order has been made on account of being surplus, indicates mala fide exercise of power on behalf of the respondent.

3) On reading of both the orders dated 17-1-2007 and 25-1-2007 (Annexure R/1), it is nowhere found that the impugned orders have been passed on account of the fact that the petitioner was surplus employee in the said office. Reliance of the learned counsel appearing for the petitioner on Annexure P/8 which has been filed subsequently, has no basis so far as transfer order is concerned. Allegation of mala fide is baseless.

4) On reading of the transfer order, it is clear and unambiguous that the transfer order has been passed in public policy due to administrative exigency.

5) Be that as it may, it is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer mater and this Court can interfere only in the case of proved mala fide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.

6) In view of the above, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Raju